

**MINUTES**  
**TOWN COUNCIL OF THE TOWN OF INDIAN RIVER SHORES**  
**REGULAR COUNCIL MEETING**  
**Thursday, August 24, 2006**  
**3:30 p.m.**

PRESENT: Thomas W. Cadden, Mayor  
David J. Becker, Vice Mayor  
Frances F. Atchison, Councilmember  
E. William Kenyon, Councilman  
William H. Ahrens, Councilman

STAFF PRESENT: Robert J. Bradshaw, Town Manager  
Laura Aldrich, Town Clerk  
Chester Clem, Town Attorney  
Bill Schauman, Director of Public Safety  
Robbie Stabe, Lt., Public Safety Department  
Richard Jefferson, Building Official

1. **Call to Order.** Mayor Cadden called the meeting to order at 3:30 p.m.
  - a. Pledge of Allegiance
  - b. Invocation – Vice Mayor Becker
  - c. Roll Call
2. **Consent Agenda.**
  - a. Acceptance of Planning, Zoning & Variance Board Minutes of July 10, 2006
  - b. Approval of Budget Workshop Minutes of July 20, 2006
  - c. Approval of Regular Town Council Meeting Minutes of July 20, 2006
  - d. Acceptance of the Building & Grounds Minutes of June 2, 2006
  - e. Approval of Invoice for Labor Attorney David Richeson
  - f. Approval of Invoice for Town Attorney Chester Clem

A **motion to approve the consent agenda as presented** was made by Councilmember Kenyon and seconded by Councilmember Atchison. There being no comments, the Mayor called for a voice vote, which **was unanimously in favor of approval.**
3. **Mayor's Items**

Mayor Cadden brought up a bill for attorney services for working on the 175/185 State retirement for the Public Safety Officers. This particular attorney was chosen based on the recommendation of the Florida League of Cities, and the work that was produced was about 50% usable. Mayor Cadden, the Town Attorney and Town Manager have closely reviewed the bill, concluding that it was impossible for that many hours to have been spent on what was produced. Therefore, he asked for a **motion that the bill be allowed to be paid at a 50% basis**, which was made by Councilman Kenyon and seconded by Councilman Ahrens. **The motion passed unanimously.** A second **motion was made that if they do not accept this offer, the Town would go to mediation or to court** by Councilman Kenyon and seconded by Councilmember Atchison. There was **unanimous approval** with no discussion.
4. **Planning, Zoning and Variance Board**
  - a. Setback Variance Approval for 393 Silver Moss Drive for Code Compliance

**NOTE:** The Town of Indian River Shores does not keep verbatim minutes as a matter of record. If a person decides to appeal any decision made by the Town of Indian River Shores Town Council with respect to any matter considered at this meeting, he or she will need to make a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. See Florida Statute 286-0105.

Mr. Jefferson said a meeting was not held due to lack of a quorum, so this was rolled over for Town Council approval. Councilman Kenyon asked if there was any new construction, and Mr. Jefferson said that there was none, it was just bringing the setback violation through the approval process as had been done with all of the other units. Following a **motion by Councilman Kenyon for approval of the variance for setback**, which was seconded by Councilmember Atchison, the motion **was unanimously approved** by the Council.

5. **Town Attorney**

Mayor Cadden asked Mr. Clem to comment on the matter of the attorney's bill that had been discussed in Item 3. Mr. Clem said that the premise that he understood was that the attorney had previously prepared an almost identical ordinance for another city, and represented to the Mayor and Town Manager that they simply had to remove that city's name and insert The Town of Indian River Shores. To then charge 80 hours for one person, 50 hours for another, and still another 20 hours for a third person, one has to wonder. The other issue is the quality and usability of the work, which had to be essentially redone. He concluded that he thought the Mayor was making a very generous proposal, but that it was important that we try to avoid litigation with this offer of compromise. Mayor Cadden added that he appreciated the comment about the conversation that this attorney had with Robert, and he was present to hear her say that they "just had done Wauchula, and would take Wauchula's name out and put Indian River Shores name in."

Mr. Clem then proceeded to the first Ordinance, reading it in title as is printed below.

- a. Second Reading of Ordinance 485, Amending the Defined Benefit and Pension Plans

**ORDINANCE NO. 485**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF INDIAN RIVER SHORES, INDIAN RIVER COUNTY, FLORIDA AMENDING THE RETIREMENT PLAN AND TRUST FOR THE GENERAL EMPLOYEES AND PUBLIC SAFETY OFFICERS OF THE TOWN OF INDIAN RIVER SHORES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

This is the issue and ordinance that was discussed at the Pension Board of Trustees meeting just a few days ago, which is needed to bring our retirement plan into compliance with the State requirements, Mr. Clem explained. Councilman Kenyon, supported by Councilmember Atchison, **moved to approve the second and final reading of Ordinance 485 as presented**. Following a roll call vote, the **motion passed unanimously**.

- b. Second Reading of Ordinance 486, Levying & Imposing Tax from Property & Casualty Insurance Premiums.

Mr. Clem continued that these two ordinances are linked so that the Town is qualified to collect additional State funds from license tax on all premiums collected for property and casualty insurance in the Town, and it will help to fund our pension plan. He read the ordinance in title as printed below.

**ORDINANCE NO. 486**

**AN ORDINANCE OF THE TOWN OF INDIAN RIVER SHORES LEVYING AND IMPOSING UPON ALL PROPERTY AND CASUALTY INSURERS, AN ADDITIONAL EXCISE OR LICENSE TAX ON ALL PREMIUMS COLLECTED FROM PROPERTY AND CASUALTY**

**INSURANCE POLICIES INSURING PROPERTY WITHIN THE MUNICIPAL LIMITS OF THE TOWN OF INDIAN RIVER SHORES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

Mr. Clem said that in section one it realleges this, and read that section. Mayor Cadden reassured the audience that this is not a new tax on the Town, but is one that is already paid through homeowners and automobile insurance companies to Tallahassee for retirement of Public Safety workers. This allows us to request from Tallahassee that our funds be returned to our employees. The Mayor said that he and Robert found out that if towns do not request the return of these funds, they are melded into the General Fund of the State.

Councilman Ahrens asked if our premiums were ever returned to Vero Beach, and Mayor Cadden said that he didn't think they ever had. Councilman Kenyon made a **motion to adopt the second reading of Ordinance 486, which was seconded by Councilman Becker**. Following roll call vote, **the motion passed unanimously**.

6. **Town Manager**

- a. Community Center Remodeling. Mr. Bradshaw referred the Council to a memorandum in their packet regarding the Community Center restoration. Mr. Jefferson completed an inspection of the building, which showed that the structure is good, but the cosmetics are lacking. The bathrooms are also not in compliance with ADA requirements. The Town requests \$70,000 to restore this building with features such as high-impact glass, bathrooms, kitchen remodeling, etc. The frequent users have been agreeable to relocating their meetings during this construction, which is expected to take not more than eight (8) weeks. The remodeling would not begin until after September 5<sup>th</sup> elections, and would use available funds from the Capital accounts.

Mr. Bradshaw asked Mr. Clem to address the no-bid, asking if we could dove-tail on the work in progress. Mr. Clem said that in this case, if we manage the work ourselves and there is already work in progress, the Statutes allow us to proceed without another bid. Councilman Becker, supported by Councilman Kenyon, made a **motion to approve the restoration of the Community Center in an amount not-to-exceed \$70,000**.

Councilmember Atchison asked if there was an opportunity to join the two buildings with a covered walkway at some point, and Mr. Jefferson said that at this point all that is covered is the interior work, and we can always add this feature later. She thought it would be better to do it now than later, and Mr. Jefferson agreed to look into it and have a figure at the next Council meeting. Councilmember Atchison thanked him, and Councilman Kenyon reminded him to talk with Ital Veron to ensure that we stay with the original architecture of the building. Mr. Bradshaw said that they are trying to move as rapidly as they can since the contractor is here and the demand for work is low right now. Following a roll call vote, the **motion passed unanimously**.

b. Budget Amendments

These items on the budget amendments have been preapproved by the Council, Mr. Bradshaw explained, adding that the source of the funds is listed on the right side of the handout, and on the left, the usage. Councilmember Atchison made a **motion to approve the budget amendments for FY05/06 as presented**, which motion was supported by Councilman Becker. Mayor Cadden asked if there was any discussion, and there being none of any consequence, yielded a roll call vote of **unanimous approval**.

## 7. Call to Council

### a. Committee Reports.

Council of Public Officials (COPO). Councilman Kenyon said that the COPO did not meet this month, but wanted to clarify that at the last meeting there was discussion about COPO becoming affiliated with the Florida League of Cities, and he had reported that all four of the other cities were in favor. At the COPO meeting they were given an erroneous report that the City of Sebastian was in favor of this action.

Also, the power service adjustment on the electric bill has been a hot topic of discussion. The Vero Beach City Council has backed off 10% on their surcharge to residents, and Councilman Kenyon asked Mr. Clem if the Town is bound by all of the added fees, and he replied that we are. Mr. Bradshaw clarified with Mr. Kenyon that he was addressing the fuel adjustment charge. Mr. Clem said it would be appropriate to have someone from the City of Vero Beach to come and address this. Mr. Bradshaw said that he had already discussed this with them, and they will come whenever we ask. Our franchise agreement goes until 2016 for electric service with the City of Vero Beach, which Mr. Clem said would be difficult to get out of. Councilman Kenyon said it was unreasonable to have a 50% surcharge for fuel costs on the bill, and that is what he wanted to be have addressed. Those with FPL have not had the same adjustment. Dr. Becker mentioned that a recent editorial said that the price of natural gas, which is their source of power at the utility plant, has gone down. The secondary source is crude oil, or #4 diesel. The lawsuit about Vero Electric trying to get out of the FMPA (Florida Municipal Power Association), which cost about \$3 million, was briefly discussed. Mr. Bradshaw was directed by the Council to invite Mr. Lindberg to speak at our next Council meeting.

Mayor Cadden said that he had discussed the COPO situation at the Florida League of Cities (FLC) annual meeting, and they can't take a formal position on it. There are four (4) counties who do not have a direct affiliation with the FLC, which are the four Treasure Coast counties. If there is going to be a league formed, they want it comprised of these four counties (Indian River, Martin, St. Lucie and Okeechobee). There is a League of Florida Mayors, who have suggested that they could form a Treasure Coast League of Florida Mayors if we did not want to disrupt the Treasure Coast Council of Local Governments (TCCLG). Mr. Bradshaw had brought it to his attention that at the County Commission meeting this week, they stated that they will not be attending COPO any more because they feel like the cities are trying to form a league to fight the County. This is exactly what he did not want to see happen, Mayor Cadden continued, adding that we have a decent relationship with the County and need to maintain that. He thinks it is a mistake to turn the COPO into a League of Cities organization, and after talking to the Sebastian Council at the FLC meeting in Jacksonville, they indicated that they had voted it down as we had. The lady from the Brevard league (which is a charter county) who came to speak to the Sebastian Council indicated that Vero Beach voted in favor and Orchid had not. The TCCLG's joint meeting with our four county area municipalities and County Commissioners is a good association, Mayor Cadden continued, adding that it really upsets him that some of the editorials and political campaigns are mentioning a charter county, which is a dangerous subject. The Town loses its autonomy, as the county could overrule municipalities. Mr. Kenyon added that at the first mention of COPO becoming associated with the Florida League of Cities, the County Commissioner who had been coming to the meetings left and has not returned.

### b. Metropolitan Planning Organization. Vice Mayor Becker said the MPO did not meet, and after reviewing the minutes from the previous meeting, there was nothing to report.

- c. Beach and Shores Preservation. Councilman Ahrens reported that he did attend the last meeting, and the members of the Advisory Committee chaired the meeting. It was well attended by the public and successful due to many of their comments being well taken. The presentation given by the coastal engineers was very well done, and in Indian River Shores (Sections 3 and 4) we are in very good position with the exception of the northernmost shoreline near Baytree experiencing minor erosion. The dune line elsewhere receded moderately, but the beach is growing.
- d. Parks and Recreation Committee. No report.
- e. Land Acquisition Advisory Committee. Councilmember Atchison said that this committee has not met since the last Council meeting.
- f. Treasure Coast Council of Local Governments. Mayor Cadden said that he attended the Board meeting, and was reelected to the Florida League of Cities Board of Directors for another year. The FLC is a very effective organization, and every one of their staff is outstanding people. The next Board meeting is at the end of September in St. Petersburg, which is paid by the FLC. The Mayor concluded that Laura has copies of the information on legislature that they are working on that is available for review by the Council.

Councilmember Atchison asked if the Town was set for a hurricane, and Chief Schauman assured her that we are. She asked about mandatory evacuations, stating that last year they were allowed to stay. He replied that normally they operate on a cautious side for a barrier island and that they are good through a Category 1 hurricane. Mr. Bradshaw added that they are good up to 145 mph winds with storm windows, and the contract for debris removal is in place.

The Council complimented the Chief on the Department report included in the packet. Mayor Cadden said that they got some good press this morning with the alert system. Chief Schauman said that about 130 people have signed up so far.

Councilman Kenyon asked if there was a new spokesperson for the County to replace Mr. McCollum yet. Chief Schauman said that the Town's letter supporting Mr. McCollum, which the Council commented was excellent and well-written, prompted a visit by him to John King, and he was told that the position is in the process of being filled.

Mayor Cadden said that the budget meetings would be on Monday, September 18<sup>th</sup> and on Thursday, September 28<sup>th</sup> in conjunction with our regular Council meeting, with both meetings beginning at 5:01 p.m. Councilmember Atchison and Councilman Becker said that they will not be at the first budget meeting, but both will be at the September 28<sup>th</sup> meeting.

8. Call to Audience. No response.

9. Adjournment

There being no further business to discuss, Mayor Cadden adjourned the meeting at 4:13 p.m.

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/s  
Laura Aldrich, Town Clerk

*(Approved by the Town Council at the September 28, 2006 meeting)*